

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

KIM FRACHEY, et al.,)	
)	
Plaintiffs,)	
)	Case No. 08 C 1148
v.)	
)	Magistrate Judge Denlow
PLANNED PARENTHOOD/CHICAGO)	
AREA, an Illinois Not-for-Profit)	
Corporation, et al.,)	
)	
Defendants.)	

**DEFENDANT CITY OF AURORA’S MOTION FOR ADDITIONAL
TIME TO FILE ITS REPLY IN FURTHER SUPPORT OF
ITS MOTION TO DISMISS COMPLAINT**

Defendant, CITY OF AURORA, by and through its attorneys, KLEIN, THORPE AND JENKINS, LTD., moves this Court for entry of an order granting it an additional twenty-eight days, or until June 9, 2008 to file its reply in further support of its motion to dismiss Plaintiffs complaint, and in support of its motion states as follows:

1. On February 13, 2008, Plaintiffs filed a seven-count complaint against Defendants, including the City of Aurora (hereinafter the “City”), in the Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Wheaton, Illinois (hereinafter the “Circuit Court”).
2. The complaint included two counts against the City brought pursuant to 42 U.S.C. §1983 claiming the City’s actions violated Plaintiff’s 14th Amendment Equal Protection and Due Process rights.

3. Pursuant to 28 U.S.C. §§ 1441 and 1443, the City, on February 25, 2008, filed a notice of removal of the lawsuit from state court to the United States District Court for the Northern District of Illinois, Eastern Division (hereinafter the “District Court”).

4. Subsequently, the City filed a motion to dismiss the complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

5. On March 20, 2008, 2008, this Court issued a Minute Order setting a briefing schedule on the City’s motion to dismiss that directed Plaintiffs to file a response to the City’s motion to dismiss by April 11, 2008 and the City to file its reply by April 25, 2008.

6. On April 11, 2008, Plaintiffs filed a motion for an extension of time to file a response to the city’s motion to dismiss.

7. On April 17, 2008, this Court issued a Minute Order that stated, “Plaintiffs’ Motion for a Short Extension of Time to File its Response to the City of Aurora’s Motion to Dismiss is granted. Renewed Motion for Leave to File Plaintiffs’ Response to the City of Aurora’s Motion to Dismiss and Motion for Stay of Consideration of Federal Claims and Remand of State Claims is granted.”

9. The City interpreted the April 17, 2008 Minute Order to mean that this Court remanded the lawsuit back to the Circuit Court sua sponte based on the arguments set forth by Plaintiffs in their response brief.

10. On April 21, 2008, the City received an Order from the District Court indicating that the lawsuit had been referred to Magistrate Judge Denlow. The Order further directed the parties to prepare an Initial Case Report and appear an initial case status on May 22, 2008.

11. The April 21, 2008 Order indicated that this Court did not remand the case back to the Circuit Court in its April 17, 2008 Minute Order.

12. The City has not prepared and filed its reply brief in support of its motion to dismiss Plaintiffs' complaint due to its belief that this Court remanded the lawsuit back to the Circuit Court in the April 17, 2008 Minute Order.

13. The City asks that it be granted 28 days from the date this motion is filed to file its reply brief.

14. The City does not seek to unduly delay the proceedings on its motion to dismiss Plaintiffs' Complaint by filing this motion. Rather, the City seeks the time it needs to prepare an appropriate reply to all this issues raised in Plaintiffs' response.

WHEREFORE, for all the above-stated reasons, Defendant City of Aurora respectfully requests that this Honorable Court grant its motion for additional time to file its reply in further support of its motion to dismiss complaint and allow the City to file its reply brief on or before June 9, 2008, and for any further relief deemed fair and just.

Respectfully submitted,

CITY OF AURORA

By: /s/Allen Wall
One of its Attorneys

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